

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SUNBELT GROUP, L.P.,
Plaintiff**

V.

**M/V SUR f/k/a M/V YOSEMITE,
her engines, tackle, boilers, etc.**

V.

**YOSEMITE LTD., WESTERN BULK
CARRIERS K/S, WESTERN BULK
CARRIERS A/S, WESTERN BULK
CARRIERS GmbH, and WESTERN
BULK CARRIERS Pte. Ltd.,
Defendants**

~~~~~

**C.A. No.** \_\_\_\_\_  
**In Admiralty**

## COMPLAINT

Plaintiff by its attorneys, Hill Rivkins LLP, complaining of the above-named vessel and defendants, alleges upon information and belief:

A.

1. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1333.

**B.**

2. At and during all the times hereinafter mentioned, plaintiff had and now has the legal status and principal offices and places of business stated in Schedule A hereto annexed and by this reference made a part hereof.

**C.**

3. At and during all times hereinafter mentioned, defendants had and now have the legal status and offices and places of business stated in Schedule A, and were and now are engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered, and controlled the above-named vessel which now is or will be within the jurisdiction of this court during the pendency of this action.

**D.**

4. On or about the date and at the port of shipment stated in Schedule A, there was delivered to the vessel and defendants, in good order and condition, the shipment described in Schedule A, which the vessel and defendants received, accepted and agreed to transport for certain consideration to the port of destination stated in Schedule A.

**E.**

5. The vessel arrived in Houston, Texas and discharged the shipment in Houston where the shipment was delivered physically damaged.

**F.**

6. By their negligent handling, stowage, and/or transportation of the cargo carried from Gemlick, Turkey to Houston, Texas, defendants caused and/or contributed to the damage to said shipment.

**G.**

7. By reason of the premises, the above-named vessel and defendants breached, failed, and violated their duties and obligations as common carriers and were otherwise at fault.

**H.**

8. Plaintiff was the shipper, consignee, or owner of the shipment as described in Schedule A, and brings this action on its own behalf and, as agent and trustee, on behalf

of and for the interest of all parties who may be or become interested in the shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

**I.**

9. Plaintiff has duly performed all duties and obligations on its part to be performed.

**J.**

10. By reason of the premises, plaintiff has sustained damages, as nearly as same can now be estimated, no part of which has been paid although duly demanded, in the amount of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00).

**K.**

11. All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

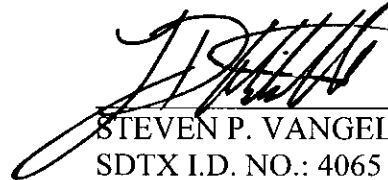
WHEREFORE, plaintiff prays:

- a. That summons in due form of law may issue against defendants;
- b. That a judgment may be entered in favor of plaintiff against defendants, one or more of them, for the amount of plaintiff's damages and attorney's fees, together with interest and the costs and disbursements of this action;
- c. That process in due form of law according to the practice of this court in causes of admiralty or maritime jurisdiction may issue against the motor vessel, her engines, etc., and that all persons having or claiming any interest therein be cited to appear and answer under oath all and singular the matters aforesaid, and this court will be pleased to pronounce a judgment in favor of Plaintiff for its damages and attorneys' fees, together with interest, costs and

disbursements, and the motor vessel may be condemned and sold to pay therefore; and

- d. That this court will grant to plaintiff such other and further relief as may be just and proper.

Respectfully submitted,



---

STEVEN P. VANGEL

SDTX I.D. NO.: 4065

Texas Bar No.: 20465800

JUSTIN D. MITCHELL

SDTX I.D. No. 1055710

Texas Bar No. 000784622

HILL RIVKINS LLP

55 Waugh Drive, Suite 1200

Houston, Texas 77007

Telephone: 713/222-1515

Direct Line: 713/457-2286

Telefax: 713/222-1359

E-mail: [svangel@hillrivkins.com](mailto:svangel@hillrivkins.com)

E-mail: [jmitchell@hillrivkins.com](mailto:jmitchell@hillrivkins.com)

ATTORNEYS FOR PLAINTIFF

SUNBELT GROUP, L.P.

**VERIFICATION**

STATE OF TEXAS     §  
                                     §  
COUNTY OF HARRIS §

Steven P. Vangel, Esq., being duly sworn, deposes and says:

I am an attorney and partner with the firm of Hill Rivkins LLP, attorneys for plaintiff. I am over twenty-one (21) years of age and fully competent to make this Verification. I have read the foregoing Complaint and know its contents. The Complaint is true to my knowledge, except as to the matters stated in the Complaint to be based on information and belief, and as to those matters, I believe them to be true.

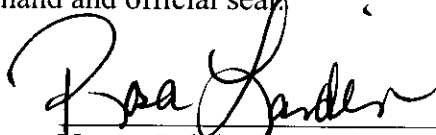
The reason this Verification is made by me and not by plaintiff is that plaintiff is a corporation, none of whose officers are now within this District.

The source of my information and the grounds for my belief as to those matters stated in the Complaint, to be alleged on information and belief, are documents and records in my files.

  
STEVEN P. VANGEL

Subscribed and sworn to before me, the undersigned notary public, on this 5<sup>th</sup> day of February, 2010, to certify which witness my hand and official seal



  
Notary Public, State of Texas

## **SCHEDULE A**

### **Legal Status and Place of Business of Parties**

Plaintiff, **Sunbelt Group L.P.**, was and now is a Delaware Corporation or other business entity with an office and place of business in Houston, Texas.

Defendant, **M/V SUR f/k/a M/V YOSEMITE**, is a general cargo vessel sailing under the flag of Liberia. The vessel was built in 1985, and its gross tonnage is 16,775 metric tons. Its IMO number is 8406901.

Defendant, **Yosemite Ltd.**, was and now is a foreign corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods by water for hire, which does not maintain a designated agent on whom service may be made, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its agent at its home office at:

Gemar Shipping and Trading Ltd.  
Parsbey Mh İbrahim Besli  
Caddesi. No: 26 Umurbey  
16600 Gemlik Bursa, Turkey.

Defendant, **Western Bulk Carriers K/S (“WBC”)**, was and now is a foreign corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does not maintain a designated agent on whom service may be made, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home offices at Western Bulk Carriers K/S, Karenslyst Alle 8B, P.O. Box 78 Skoyen, N-0212 Oslo, Norway, or Henrik Ibsengate 100 (N-0255) P.O. Box 2868, Stoli, Oslo, N-2030 Norway, or its U.S. Office at 1001 Fourth Avenue, Suite 2323, Seattle, WA 98154.

Defendant, **Western Bulk Carriers A/S (“WBCA”)**, was and now is a foreign corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods by water for hire, which does not maintain a designated agent on whom service may be made, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home offices at Western Bulk Carriers A/S, Henrik Ibsengate 100 (N-0255) P.O. Box 2868, Stoli, Oslo, N-2030 Norway, or its U.S. Office at 1001 Fourth Avenue, Suite 2323, Seattle, WA 98154.

Defendant, **Western Bulk Carriers GmbH (“WBCG”)**, was and now is a foreign corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods by water for hire, which does not maintain a designated agent on whom service may be made, and

thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home offices at Western Bulk Carriers GmbH, c/o/ Dr. Gert Wulfing, Klosteralle 53, 20144 Hamburg, Germany, or its U.S. Office at 1001 Fourth Avenue, Suite 2323, Seattle, WA 98154.

Defendant, **Western Bulk Carriers Pte. Ltd. (“PTE”)**, was and now is a foreign corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods by water for hire, which does not maintain a designated agent on whom service may be made, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home offices at Western Bulk Carriers Pte. Ltd., 6 Battery Road, #38-01A Singapore 049909, or its U.S. Office at 1001 Fourth Avenue, Suite 2323, Seattle, WA 98154.

### **DESCRIPTION OF SHIPMENT**

Vessel: M/V SUR f/k/a M/V YOSEMITE

Date of Shipment: April 7, 2009

Ports of Loading: Gemlick, Turkey

Port of Discharge: Houston, Texas

Shipper: Borusan Mannesmann Boru Sanayi ve Ticaret A.S.

Consignee: Sunbelt Group, L.P.

Description of Shipment: Steel Pipe

Nature of Loss or Damage: Physical Damage

Amount: \$15,000.00